

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

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In the Matter of

SEP 07 1999

Amendment of Section 73.202(h)
 Table of Allotments
 FM Broadcast Stations
 (Albemarle and Indian Trail,
 North Carolina)

MM Docket No. 99-240

RM-9503

To: Chief, Allocations Branch
 Mass Media Bureau

REPLY COMMENTS TO MONROE BROADCASTING COMPANY, INC.

Susquehanna Radio Corp. ("SRC"), by its counsel, and pursuant to Sections 1.415 and 1.420 of the Commission's Rules, hereby files its reply comments in the above-captioned proceeding. In this proceeding, SRC seeks to relocate and change the community of license of Station WABZ, Channel 265A, from Albemarle, North Carolina, to Indian Trail, North Carolina. This reply is directed to the "Comments" filed by Monroe Broadcasting Company, Inc. ("MBC"), licensee of WIXE(AM), Monroe, North Carolina. MBC opposes the WABZ relocation. In support hereof, SRC states as follows:

DISCUSSION

1. In its petition for rule making, SRC demonstrated that the reallocation of WABZ from Albemarle to Indian Trail would result in a preferential arrangement of allotments since it would provide a first local service to Indian Trail (Priority 3) while maintaining local service to Albemarle (Priority 4). *See Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982); *Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), *recon. granted in part*, 5 FCC Rcd 7094 (1990). Although Indian Trail is located in the Charlotte Urbanized Area, SRC demonstrated

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that Indian Trail is a community independent of Charlotte for allotment purposes. *See Faye and Richard Tuck*, 3 FCC Rcd 5374 (1988).

I. The Commission Has No Rule or Policy Requiring a Petitioner to Demonstrate Independence of a Community from Other Communities Outside a Central City-Suburban Context.

2. MBC does not contest SRC's showing that Indian Trail is a community independent of Charlotte for allotment purposes. Instead, MBC asserts that Indian Trail is dependent upon Monroe, a community of 16,127 (1990 census) located nearby. However, Indian Trail's alleged dependence on Monroe has no bearing whatsoever on whether Indian Trail is a community for allotment purposes. The Commission presumes that *every* separate community needs at least one local transmission service.¹ With only one exception, a showing of independence is not necessary to establish the fitness of a community for a broadcast allotment. The sole exception is in the case of communities surrounding a central city which form an integral part of that city's Urbanized Area including the instances where a proposed 70 dBu signal covers more than 50% of the Urbanized Area. That exception does not apply in this case, since Monroe is not the central city of an Urbanized Area nor is it a part of an Urbanized Area. SRC has already demonstrated Indian Trail's independence from Charlotte; it need not demonstrate that Indian Trail is independent of every other community in the area. *See Beaufort County Broadcasting Co. v. FCC*, 787 F.2d 645 (D.C. Cir. 1986) (denying any presumption that a community's local transmission needs are satisfied by outlets in contiguous communities outside the central city-suburb context).

II. Even If Such A Requirement Existed, It Would Be Satisfied In This Case Since Indian Trail is Independent of Monroe.

3. Even if there were a requirement for SRC to demonstrate that Indian Trail is independent of Monroe (which there is not), Indian Trail would clearly satisfy such a requirement.

1. *Tuck*, 3 FCC Rcd at 5376; *Revision of FM Assignment Policies and Procedures*, *supra*.

A brief review of the eight *Tuck* factors that SRC analyzed in demonstrating Indian Trail's independence from Charlotte also demonstrate Indian Trail's independence from Monroe.

(1) *The extent to which the community residents work in the larger metropolitan area, rather than the specified community.* According to 1990 U.S. Census Bureau data, 22.2% of working-age Indian Trail residents work in Union County (including Indian Trail and Monroe), and 11.3% work in Indian Trail itself. Even assuming that all those who work in Union County but do not work in Indian Trail work in Monroe (an unrealistic assumption), only 10.9% of all residents could possibly work in Monroe -- less than the 11.3% who work in Indian Trail.

(2) *Whether the smaller community has its own newspaper or other media that covers the community's local needs and interests.* While Indian Trail is served by Union County newspapers and cable television, it has its own web page on the Internet at <www.indiantrailonline.com>.

(3) *Whether community leaders and residents perceive the specified community as being an integral part of, or separate from, the larger metropolitan area.* Indian Trail historically has been separate from Monroe with a distinct identity. The population of the area has recently grown, necessarily resulting in some growth in community boundaries toward each other. This recent trend does not diminish the perception of the two communities as distinct. In a conversation with undersigned counsel, Mr. John Munn, the Town Manager of Indian Trail, stated that based on his experience, the residents of Indian Trail consider their town to be a vibrant, growing, and self-sustaining community that offers its residents access to all of the government services, commercial establishments and cultural activities of an independent community.

(4) *Whether the specified community has its own local government and elected officials.* Indian Trail has its own local government independent of Monroe, the county seat of Union County.

(5) *Whether the smaller community has its own telephone book provided by the local telephone company or zip code.* The Indian Trail telephone book states that it serves the

communities of Hemby Bridge, Indian Trail, Matthews, Stallings, Waxhaw, and Weddington. Any Monroe listings would only be included within the book's general Union County listings. Indian Trail has its own zip code.

(6) *Whether the community has its own commercial establishments, health facilities, and transportation systems.* There are numerous businesses located within Indian Trail. Indian Trail has its own medical and dental facilities. It has its own religious and civic organizations. The residents of Indian Trail do not need to travel to Monroe to purchase goods and services.

(7) *The extent to which the specified community and the central city are part of the same advertising market.* Indian Trail is served by Union County advertising outlets, although the Indian Trail Internet web site may provide advertising targeted to Indian Trail residents.

(8) *The extent to which specified community relies on the larger metropolitan area for various municipal services such as police, fire protection, schools, and libraries.* Indian Trail has its own library and schools, planning and zoning services and garbage collection. It has its own volunteer fire protection service and pays the County's Sheriff's Department for full time police protection.

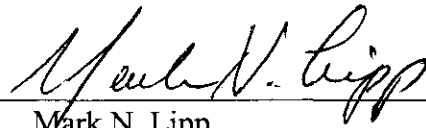
4. Clearly, a majority of the eight factors demonstrate the independence of Indian Trail from Monroe. To the extent Indian Trail, like any town, receives government services from the county those services do not detract from the overwhelming amount of evidence of Indian Trail's independence. Indeed, if MBC were correct, that a town receiving county government services could be disqualified from obtaining a broadcast allotment, then only county seats such as Monroe and larger cities such as Charlotte could receive allotments. This would not be a "fair, efficient, and equitable distribution of radio services" as required by Section 307(b) of the Communications Act.

CONCLUSION

5. MBC has raised no issue that would disqualify Indian Trail as a community for allotment purposes. Since there is no cognizable opposition to the proposed allotment, the Commission should grant SRC's request to reallocate Channel 265A from Albemarle to Indian Trail, North Carolina, for Station WABZ(FM).

Respectfully submitted,

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September 7, 1999

CERTIFICATE OF SERVICE

I, Lisa M. Balzer, a secretary in the law firm of Shook, Hardy & Bacon LLP, do hereby certify that on this 7th day of September, 1999, I have caused to be sent the foregoing "Reply Comments of Susquehanna Radio Corp." via first class mail to the following:

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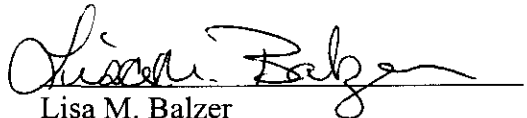
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